

Appl. No. 10/633,970
 Atty. Docket No. 9153R
 Appellant Brief April 6, 2005
 Reply to Office Action of December 2, 2004
 Notice of Appeal February 25, 2005
 Customer No. 27752

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/633,970
 Appellant(s) : Cimiluca et al.
 Filed : August 4, 2003
 Title : COMPOSITION COMPRISING A PLURALITY OF PARTICLES
 OR AGGLOMERATES HAVING A DEFINED PARTICLE SIZE
 TC/A.U. : 1623
 Examiner : E. White
 Conf. No. : 5176
 Docket No. : 9153R
 Customer No. : 27752

APPEAL BRIEF

Mail Stop Appeal Brief - Patents
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450
 Dear Sir,

This Brief is filed pursuant to the appeal from the U.S. Patent and Trademark Office decision mailed December 2, 2004 finally rejecting Claims 1-59. A Notice of Appeal was timely filed on February 25, 2005.

REAL PARTY IN INTEREST

The real party in interest is The Procter & Gamble Company of Cincinnati, Ohio.

RELATED APPEALS AND INTERFERENCES

There are no known related appeals, interferences, or judicial proceedings.

STATUS OF CLAIMS

Claims 1-59 are finally rejected. Claims 1-59 are appealed.

A complete copy of the appealed claims is set forth in the Claims Appendix attached herein.

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culled from the prior art to fit parameters." *See ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 48 USPQ2d 1321 (Fed. Cir. 1998). "There should be something in the prior art or a convincing line of reasoning in the answer suggesting the desirability of combining the reference in such a manner as to arrive at the claimed invention." *In re Dembiczak* 175 F.3d 994, 999 (Fed. Cir. 1999).

Therefore, Appellants contend that the claimed invention is unobvious and that the rejection should be withdrawn.

SUMMARY

In view of all of the above, it is respectfully submitted that the aforementioned rejections are erroneous. The Board's reversal of the rejections is respectfully requested.

Respectfully Submitted,

THE PROCTER & GAMBLE COMPANY

By Cynthia L. Clay
Signature

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April 6, 2005

Customer No. 27752